

I certify that the information contained in or accompanying this submission is true, accurate and complete. This certification is based on my personal preparation, review, or analysis of the submission, and/or supervision of persons who, acting on my direct instructions, made the verification that the submitted information is true, accurate and complete.

## **XII. GENERAL PROVISIONS**

40. Complete performance by Pro-Tec of all of its obligations under this Consent Decree shall fully satisfy all civil liability of the Defendant for the violations alleged in the Complaint in this action through the date of lodging of the Consent Decree. Nothing in the Consent Decree shall be construed to resolve or otherwise affect Pro-Tec's liability for compliance with or claims under other applicable federal and state laws and regulations and other time periods.

41. Except as provided in the preceding Paragraph, in any subsequent administrative or judicial proceeding initiated by the United States, Pro-Tec shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case.

42. Nothing in this Consent Decree is intended, nor shall be construed, to operate in any way to resolve any criminal liability of the Defendant.

43. This Consent Decree shall not relieve Pro-Tec of its obligation to comply with all applicable provisions of Federal, State or local law, and with any order of the Court, including but not limited to an order pursuant to Section 303 of the CAA, 42 U.S.C. § 7603; nor shall it be construed to be a ruling on, or determination of, any issue related to any Federal, State or local

permit; nor shall it be construed to constitute U.S. EPA approval of any specific equipment or technology Pro-Tec may install in accordance with the terms of this Consent Decree.

44. This Consent Decree does not limit or affect the rights of Pro-Tec or the United States as against any third parties.

45. Each Party to this action shall bear its own costs and attorney's fees. Pro-Tec specifically waives any claims, if applicable, for costs, fees or expenses incurred in this action, including claims under 28 U.S.C. § 2412 (Equal Access to Justice Act), as amended.

46. Any modification of this Consent Decree must be in writing and approved by the Court. Any such written modification must be agreed to and signed by all parties to this Consent Decree.

47. Pro-Tec consents to the entry of this Consent Decree without further notice.

48. Pro-Tec hereby agrees to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons, and to accept service of the Complaint filed in this action by regular U.S. mail.

### **XIII. DOCUMENT RETENTION**

49. Pro-Tec agrees that it shall preserve, during the pendency of this Consent Decree and for a minimum of three (3) years after its termination, at least one legible copy of all records and documents, including computer tapes, in its possession, custody, or control of its divisions, employees, agents, accountants, contractors, and attorneys, that relate to the violations alleged in the Complaint filed by Plaintiff, and the performance of Pro-Tec's obligations under this Consent Decree, including, but not limited to, documents embodying or relating to the results of any

sampling, tests, or other data or information generated or acquired by Pro-Tec, or on Pro-Tec's behalf.

#### **XIV. RETENTION OF JURISDICTION**

50. This Court shall retain jurisdiction to modify or enforce the terms of this Consent Decree or to take any action necessary or appropriate for its construction of execution.

#### **XV. TERMINATION**

51. This Consent Decree may be terminated twelve (12) months after Pro-Tec has completed all actions required of it in the Consent Decree, provided that Pro-Tec has been in continuous compliance with the terms of the Consent Decree for the preceding twelve (12) months. At such time, Pro-Tec shall notify U.S. EPA that Pro-Tec has completed its obligations under the Consent Decree and has been in continuous compliance with the terms of the Consent Decree for the preceding twelve (12) months. If U.S. EPA agrees, the United States and Pro-Tec shall jointly move the Court to terminate the Consent Decree.

#### **XVI. PUBLIC COMMENT**

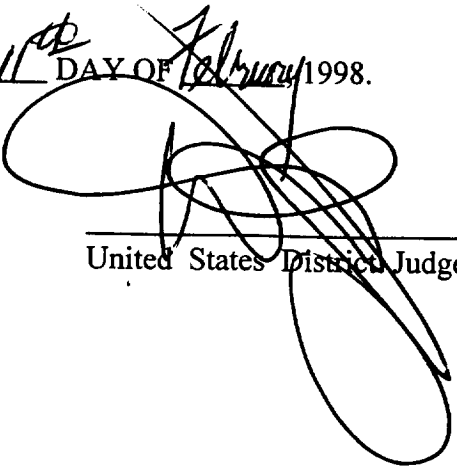
52. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days, for public notice and comment in accordance with the provisions of 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments received disclose facts or considerations that indicate that the Consent Decree is inappropriate, improper or inadequate. This Consent Decree shall become effective upon entry by the Court.

#### **XVII. SIGNATORIES**

53. Each undersigned representative of Pro-Tec and the Assistant Attorney General for Environment and Natural Resources of the Department of Justice certifies that he or she is

fully authorized to enter into the terms and conditions of this Decree and to execute and legally bind such party to this Decree.

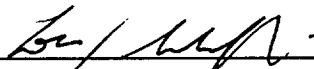
SO ORDERED THIS 11<sup>th</sup> DAY OF February 1998.




United States District Judge

Through their undersigned representatives, the Parties agree and consent to entry of the foregoing Consent Decree in United States of America v. Pro-Tec Coating Company:

FOR PLAINTIFF UNITED STATES OF AMERICA:


  
LOIS J. SCHIFFER  
Assistant Attorney General  
Environment and Natural Resources  
Division  
United States Department of Justice

Date: 12/26/98

  
JAMES D. FREEMAN  
Trial Attorney  
United States Department of Justice  
Environmental Enforcement Section  
999 Eighteenth Street  
Suite 945-NT  
Denver, Colorado 80202  
(303) 312-7376

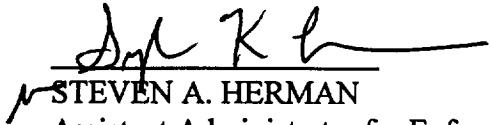
Date: 12/11/98

EMILY M. SWEENEY  
United States Attorney  
Northern District of Ohio

By:   
RALPH J. LEWIS (#0032556)  
Assistant United States Attorney  
Northern District of Ohio  
Four Seagate, Suite 308  
Toledo, Ohio 43604-2624  
(419) 241-0715

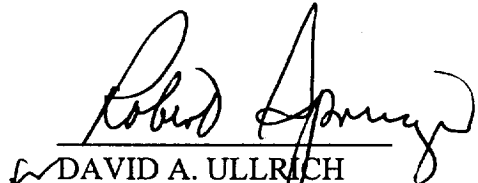
Date: 12/15/98

Through their undersigned representatives, the Parties agree and consent to entry of the foregoing Consent Decree in United States of America v. Pro-Tec Coating Company:

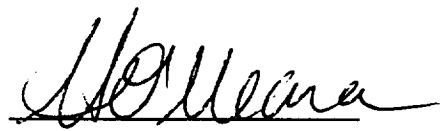
  
STEVEN A. HERMAN  
Assistant Administrator for Enforcement  
U.S. Environmental Protection Agency

Date: 11/16/98

Through their undersigned representatives, the Parties agree and consent to entry of the foregoing Consent Decree in United States of America v. Pro-Tec Coating Company:

  
for DAVID A. ULLRICH  
Acting Regional Administrator  
Region V  
U.S. Environmental Protection Agency

Date: 10/21/98

  
NIDHI O'MEARA  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region V  
77 West Jackson Boulevard (C-14J)  
Chicago, Illinois 60604

Date: 10/15/98

Through their undersigned representatives, the Parties agree and consent to entry of the foregoing Consent Decree in United States of America v. Pro-Tec Coating Company:

FOR DEFENDANT, PRO-TEC COATING COMPANY:



PAUL WORSTELL  
General Manager  
Pro-Tec Coating Company  
5000 County Road, #5  
Leipsic, Ohio 45856

Date: 10-9-98